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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1481st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 9 August 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

later: Mr. FALL
(Vice-Chairman)

later: Mr. SHERIFIS
(Chairman)

* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1481/Add.1.

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Sixth to ninth periodic reports of Viet Nam (continued) (CERD/C/357/Add.2)

1. At the invitation of the Chairman, the members of the delegation of Viet Nam resumed their places at the Committee table.

2. Mr. SHAHI, having paid tribute to Viet Nam's heroic struggle to uphold its independence, inquired about the status of proceedings against persons accused of war crimes during the rule of the Khmer Rouge in Cambodia from 1975 to 1979, when over 1 million people were said to have been killed. Had the trials commenced? What verdicts had been delivered?

3. Mr. NGUYEN QUY BINH (Viet Nam), replying to members' questions and referring to the statement in paragraph 23 of the report (CERD/C/357/Add.2) that racial discrimination was unfamiliar in Viet Nam, said that the traditional absence of racial hatred between different groups of the population did not mean that racial discrimination never occurred. The word "ethnic" did not exist in the Vietnamese language; it had been used only for the purpose of reporting on the implementation of the Convention. Normally the term employed would be "minority peoples". Similarly there was no exact translation in Vietnamese of "minority or ethnic group". A more accurate translation of the Vietnamese expression would be "minority groups of people". The word "development" signified in general economic development, although it also encompassed some social aspects. "Cluster" was a borrowed term, which could refer to a town or several large villages that formed the centre of an area. The delegation would supply the Committee with a copy of the book Ethnic minorities in Vietnam and with a document giving the names of all the ethnic groups and the number of people in each group.

4. With regard to the implementation of article 4 of the Convention, he explained that there was no exact definition of racial acts in Vietnamese law because, in reality, the incidence of racial violence was so low that legislators were reluctant to pass laws establishing such a definition. That did not, however, imply that the State party paid no attention to the subject. The issue had been raised after the Committee had considered the previous periodic report and it would be discussed again when the law was revised.

5. Several legal provisions dealt with the use of minority languages in courts. Article 21 of the Code of Criminal Procedure laid down that, if persons from a minority group appeared in court, they were entitled to use their own language and alphabet and to avail themselves of the services of an interpreter. Articles 45 and 307 referred to translation and interpretation for the courts. The translator or interpreter bore criminal responsibility in the event of inaccuracies. He was unable to supply any information about the number of cases involving racist violence or racial discrimination which had been tried by the courts.

6. Machinery ensuring access to the law had been introduced through the basic laws of the country, including the Constitution and the Code of Criminal Procedure, and also through a

separate law on denunciation, which set out the steps which had to be taken by victims of crimes in order to seek redress via the courts or various administrative bodies. That right was enforced in pursuance of a government decree. As to compensation, article 24 of the Code of Criminal Procedure stipulated that if the police, public prosecutors or courts wrongly accused a person of a crime, that person was entitled to compensation for material damage and loss of reputation. The Law on Complaint and Denunciation contained a similar provision.

7. There were many obstacles to closing the gap in living standards between mountain and lowland areas. The disparities were chiefly caused by natural conditions. In the mountains, the population was scattered, the infrastructure was poor and, although state investment was substantial, it was less effective than in the lowlands. Furthermore, it was impossible to devise a unified policy, since the different local customs and traditions of each region had to be respected.

8. There were no separate regulations governing the election of National Assembly deputies from minority groups. There were, however, separate laws dealing with the election of deputies to the National Assembly and the election of representatives in People's Councils at district and provincial level. There had been much discussion of the phrase "appropriate number of ethnic deputies", because some circles had contended that a fixed quota might result in less able people becoming deputies. In accordance with articles 90 and 91 of the Constitution, the Standing Committee of the National Assembly comprised the Chairman and Vice-Chairmen of the National Assembly and members. The Standing Committee acted as the executive between sessions of the National Assembly. Deputies from ethnic groups filled over 15 per cent of the seats in the National Assembly and members of those groups occupied positions of authority in politics and society.

9. The Committee on Ethnic Affairs and Mountainous Regions was a government committee with ministerial status. Its members were selected according to the same procedure as that used to appoint civil servants. The Chairman of the Committee came from one of the ethnic groups.

10. Every citizen had the right to free movement and to leave or return to Viet Nam. Customs and immigration procedures had been greatly improved in recent years and entry visas were no longer required. Every citizen could hold an identity card and a passport, the latter being easier to obtain.

11. With regard to the question about the ownership of land by minority peoples, he said that, pursuant to the Constitution, the land was owned by the entire people. In practice, a leasehold system had been in operation since 1986, and the five rights recognized, namely the right to inherit, transfer, sell, rent or sublet, were tantamount to ownership. Agricultural land and forest allotted to people free of charge for long-term use formed a second category and could also be inherited by or bequeathed to descendents. In mountainous regions, land was allotted to ethnic groups as a matter of priority, except in towns or areas in which the Kinh and minority groups lived side by side, where some land was held by lease. Unfortunately the mountain peoples employed traditional cultivation methods and burned the forests, thereby causing major

environmental disasters in the form of floods affecting millions of people living downstream along the Mekong river. The Government was therefore endeavouring to persuade ethnic groups to adopt a settled method of cultivation, even though the latter would require large-scale investment from the Government so as to ensure adequate water supplies for rice-growing.

12. The movement of people to clear land for cultivation did not concern the ethnic people; it applied only to lowland people in the delta where population density was very high. There was no question of moving minority people. The Government did, however, have two programmes to encourage lowlanders to go to mountain regions. Lowlanders were reluctant to leave the comforts of the towns in the delta and so the Government was investing heavily in infrastructure in the mountain regions and in promoting individual initiative there.

13. Boarding schools were not special schools. They merely provided accommodation for children who lived too far away to be able to go home every day. Since the curriculum was the same as in all other schools, there was no danger of discrimination. In 2000, the goal of primary education for all had been achieved, even in mountain regions where economic hardship prompted parents to send their children out to work rather than allow them to attend school. A great effort therefore had to be made to assist parents so that their children could be educated.

14. The previous year, Viet Nam had received the United Nations Population Award and had managed to reduce its annual population growth rate to 1.5 per cent. Family planning was voluntary; women in minority areas were definately not subjected to forced sterilization. The disincentives to having a large family applied to all groups of the population. For example, as from the third child, maternity leave was curtailed and the parents were fined.

15. Mr. Fall (Vice-Chairman) took the Chair.

16. Vietnamese citizens who had been living abroad since the time of the liberation struggle were free to return to the country and, indeed, were encouraged to do so. Overseas Vietnamese had accounted for more than half of the over 1 million visitors to the country during the previous year. Pursuant to the Law on Nationalities, such persons had a right to Vietnamese nationality and passports. There was, however, no automatic right to recovery of property. Decisions depended on circumstances, and matters were usually complicated by the length of time that had elapsed since the anti-colonial warfare and the confused situation at the time, involving large, uncontrolled population movements between the north and south of the country. Nevertheless, many people had been able to retain ownership of property. The Government's policy of encouraging people to return was based, inter alia, on recognition, from the experience of other countries, of the value of human resources for development. With regard to the situation of Amerasian children, an agreement had been reached between the Vietnamese and United States Governments.

17. Trafficking in women and children was a crime against which the Government took strong action, including severe measures aimed at putting a stop to the practice and punishing the perpetrators. The task involved was very difficult, however, and the authorities were seeking and receiving international assistance. With regard to nationality and citizenship for Chinese and

Cambodians, those who desired it had to apply and submit to a standard procedure. In that regard, the situation of the Chinese minority in the country could be seen in a new and improved light as a result of the policy of good neighbourliness between Viet Nam and China.

18. The international human rights instruments, including the Convention, to which Viet Nam subscribed had been, for the most part, translated into Vietnamese. In addition, human rights training programmes, workshops and seminars had been established, with technical assistance from a number of countries, including France, Australia and Sweden. A considerable part of the provisions had been adopted into domestic legislation during the previous decade. In other fields, too, such as trade, Viet Nam recognized international arbitration. As to whether Viet Nam had subscribed to International Labour Organization (ILO) Conventions, it was already a party to 15 of them, including Convention No. 111, but not Convention No. 169. Viet Nam had very good relations with ILO, which had provided technical assistance leading to the adoption of the Labour Code, which currently governed important areas such as trade-union activity and child-labour restrictions. The Government deemed the role of non-governmental organizations (NGOs) highly important, although it had had problems with some; it simply expected that organizations claiming such status should behave objectively.

19. Questions had been asked about freedom of religion and belief, and about NGO complaints in that regard, which were being looked into. In fact, however, expression of religious belief was on the increase. The number of practising Christians, for example, had almost doubled during the previous 20 years. Likewise with regard to Buddhism, there were currently 3 Buddhist schools compared to 1 before 1995; there were also 27 Buddhist colleges and 3 universities. Religious belief was not incompatible with Communist Party membership; he himself, a Buddhist, was a Party member. Places of worship were increasing in number throughout the country, and over 20 million people professed some faith. There were some 14,000 pagodas, 6,000 churches and 98 mosques, not to mention tens of thousands of temples and shrines. Certain events that had raised concern about repression of religious expression seemed to have been instigated by persons inciting unrest in the guise of religious freedom; action taken by the authorities had been aimed at maintaining law and order, not at repressing religious movements.

20. Viet Nam had supported a recent decision by the Cambodian Government to institute a tribunal in respect of crimes committed by the Khmer Rouge, and would cooperate with the Cambodian Government and the international community to that end.

21. Since the submission of the previous periodic reports, Viet Nam continued to attach high priority to implementation of the Convention's provisions, which it deemed in its own interests, being relevant to the decolonization and development process.

22. Ms. JANUARY-BARDILL (Country Rapporteur) said that the Committee appreciated the delegation's frank responses to members' questions and the additional information provided on the demographic composition of the 53 ethnic groups in Viet Nam. A sort of hierarchy seemingly influenced social relations, leading to discriminatory practices and other social ills; in that regard, the Committee would like the authorities to consider how they might apply article 1

of the Convention as a means to tackle unequal relations within Vietnamese society. The Committee commended the efforts to rebuild the fabric of that society, since social and economic stability did a great deal to ease racial and ethnic tensions; it invited the State party to build on what had already been achieved.

23. The Constitution of Viet Nam devoted a whole chapter to the fundamental rights and obligations of citizens, and several laws had been enacted to implement that instrument. The Committee would, however, like to see more specific anti-discriminatory legislation pursuant to article 5 of the Convention, and would appreciate more information on the implementation of the laws and their effect, and any obstacles encountered. It felt that measures taken under article 4 could be enhanced. Since consideration of the previous report had highlighted limitations in prevailing anti-discriminatory provisions, the Committee would like to know how current instruments had been put to use, and with what results for people belonging to minority groups, particularly in the mountain regions. While it appreciated the additional information on measures to ensure access and compensation, it requested more information, in the next periodic report, on the results achieved through the relevant instruments. The allocation of resources to bodies such as the Committee on Ethnic Affairs and Mountain People reflected a commitment to address discrepancies resulting from discrimination. Further information on the selection process for membership of such bodies, and on their policies and results, as well as details about how they were monitored, would be appreciated.

24. An analysis by gender of official data on discrimination against ethnic minorities would assist the Committee considerably. The latter was greatly concerned, in that regard, about allegations of forced sterilization of minority women, and would appreciate more information on the subject. It would also like to have replies about the situation of refugees and asylum-seekers, and about the religious rights and freedoms of ethnic minorities, including much more information about how the Convention's provisions were reflected in measures to promote the material and spiritual life of all ethnic minorities, providing details of the measures taken and obstacles faced rather than a mere list of laws. She assured the delegation that the Committee fully supported Viet Nam's efforts to achieve progress, and looked forward to further dialogue when considering the next periodic report.

25. Mr. Sherifis, Chairman, resumed the Chair.

26. Mr. RESHETOV said he welcomed in particular the additional information provided, including data on the representation of national minorities in Parliament and on freedom of religion. The delegation had mentioned the issue of information submitted by NGOs; while he agreed, and the Committee was well aware, that such organizations varied widely in quality, it should be noted that the Committee members, while using States parties' periodic reports as the basic source of information, were at liberty to consider other sources, including submissions by NGOs, and could exercise their own judgement as to their quality. He looked forward to further cooperation with the State party in the future.

27. Mr. NGUYEN QUY BINH (Viet Nam) said that his delegation attached great importance to dialogue with the Committee and thanked all its members for their encouragement and suggestions on how best to give effect to the Convention's provisions, an aim which Viet Nam recognized was in its own interests.

28. The CHAIRMAN said he appreciated the delegation's frank responses to the Committee's questions and comments, and especially the observation that implementation of the provisions of the Convention was in the country's own interests. He invited members of the delegation who so wished to attend, as observers, the meeting at which the Committee would adopt its concluding observations on Viet Nam's sixth to ninth periodic reports.

29. The delegation of Viet Nam withdrew.

Draft concluding observations concerning the eighth and ninth periodic reports of China (continued) (CERD/C/59/Misc.16/Rev.2)

Paragraphs 15 and 16

30. Paragraphs 15 and 16 were adopted.

Paragraph 17

31. Mr. THORNBERRY said that, in line 3, the words "Bill of Rights Ordinance" should be replaced by "Special Administrative Region" and, at the beginning of the second sentence, the words "is particularly concerned about" should be replaced by "rejects".

32. Mr. PILLAI recalled that the delegation had indicated that consultations had been held on the need for special legislation and that further consultations were planned, and wondered whether the paragraph should not make mention of those ongoing efforts.

33. The CHAIRMAN said that the word "rejects" was perhaps too strong and suggested "does not accept".

34. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) endorsed the drafting changes proposed by Mr. Thornberry and the Chairman and, following the suggestion made by Mr. Pillai, recommended inserting the words "takes note of the ongoing process of consultations and" following the words "the Committee" in the first sentence.

35. Paragraph 17, as amended, was adopted.

Paragraph 18

36. Paragraph 18 was adopted.

Paragraph 19

37. After an exchange of views on the appropriateness of the term "jurisprudence" and the word "accordance", in which Ms. BRITZ, Mr. RESHETOV, Mr. de GOUTTES,

Mr. THORNBERRY, Mr. SHAHI, and the CHAIRMAN took part, Mr. VALENCIA RODRIGUEZ (Country Rapporteur) expressed the opinion that "jurisprudence" should be replaced with "case law" and "accordance" with "granting".

38. Paragraph 19, as amended, was adopted.

Paragraph 20

39. Mr. ABOUL-NASR said that the Committee seemed to be requesting a great deal of detailed information from the State party and wondered whether it was really necessary to also specifically include gender-disaggregated statistics; it was also not clear to him what was meant by "gender-related racial discrimination".

40. Mr. de GOUTTES said that it would be preferable to put concerns about national and ethnic discrimination first, which was after all the purpose of the Convention; he suggested deleting the words "gender and", since gender-related issues were referred to subsequently.

41. Ms. JANUARY-BARDILL agreed with that proposal. She pointed out that the issue of gender-related discrimination had been dealt with in the Committee's General Recommendation XXV and the particular effects of discrimination on women had also been discussed on many occasions by the Committee.

42. Mr. YUTZIS recalled that specifically gender-related issues were a common theme in all human rights treaty bodies, as was the notion of the double discrimination to which women were frequently subjected.

43. Mr. SHAHI queried the specific reference to "trafficking" as being unnecessary.

44. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) agreed with the amendment proposed by Mr. de Gouttes and subscribed to the comments made by Ms. January-Bardill and Mr. Yutzis.

45. Paragraph 20, as amended, was adopted.

Paragraph 21

46. Paragraph 21 was adopted with a minor drafting change.

Paragraph 22

47. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that, in keeping with the wording that the Committee had decided to adopt in the concluding observations on the reports of all States parties considered in 2001, the word "optional" should be inserted before the words "declaration provided for".

48. Paragraph 22, as amended, was adopted.

Paragraphs 23 and 24

49. Paragraphs 23 and 24 were adopted.

Paragraph 25

50. Mr. PILLAI asked whether the year for submission of China's next periodic report should not be changed to 2005, as had been done for example in the case of Italy.

51. The CHAIRMAN said that a possible change of date would be discussed with the secretariat.

52. Paragraph 25 was provisionally adopted, subject to the possible change of date.

53. The draft concluding observations concerning the eighth and ninth periodic reports of China as a whole, as amended and subject to agreed drafting changes, were adopted.

The open part of the meeting rose at 12.05 p.m.